## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CRIMINAL DOCKET NO.: 3:03CR96

UNITED STATES OF AMERICA	)	
	)	
vs.	)	
	)	ORDER
JAIME CISNEROS-GARCIA,	)	
	)	
Defendant.	)	
	)	

THIS MATTER is before the Court on its own motion. On October 17, 2003, a jury found Defendant guilty of being a previously deported alien found in the United States, in violation of 8 U.S.C. §§ 1326(a), (b)(2). On August 17, 2004, this Court sentenced Defendant to 125 months imprisonment. Judgment was entered on September 22, 2004. On September 24, 2004, Defendant filed a Notice of Appeal. On December 14, 2005, the United States Court of Appeals for the Fourth Circuit affirmed Defendant's conviction but vacated his sentence and remanded Defendant for re-sentencing pursuant to *United States v. Hughes*, 401 F.3d 540, 548 (4th Cir. 2005). Specifically, the Fourth Circuit found that Defendant's sentence was enhanced beyond the maximum permitted by the facts found by a jury or admitted to by the Defendant. The Mandate issued on January 9, 2006.

Defendant is currently scheduled for re-sentencing on November 27, 2006. However, in order to properly prepare for such hearing, the Court requests that each party file a sentencing memorandum with the Court within fourteen (14) days of the date of this Order. These sentencing memoranda should address the arguments raised by the Fourth Circuit and should advise the Court of how Defendant's sentence should be calculated in light of the Fourth Circuit's ruling.

IT IS, THEREFORE, ORDERED that Defendant and the Government shall file independent sentencing memoranda within <u>fourteen (14) days of the date of this Order</u>.

Signed: October 3, 2006

Richard L. Voorhees United States District Judge